IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPLICATION NO.2578 of 2005
IN
CRIMINAL WRIT PETITION NO.1493 OF 1999

Radheshyam J. Gupta Petitioner

Vs.

The Union of Inid & ors. Respondents

Mr.S.S.Redekar for petitioner.
Mrs.A.S.Pai, APP for State.

CORAM: B.H.MARLAPALLE & SMT.R.S.DALVI,JJ.

February 02, 2006.

P.C.

. Heard Mr.Redekar, the learned counsel for the applicant who had filed Criminal Writ Petition No.1493 of 1999 and the said petition came to be dismissed in default on 3-11-2003. The applicant has applied in Criminal Application No.2579 of 2005 for the restoration of the said petition but belatedly and hence this application for condonation of delay.

. As per the office note the application for restoration is beyond time by 490 days. The only explanation furnished is that due to the misunderstanding the learned Advocate could not remain present on 3-11-2003 and the petitioner

appointed Mr.S.S.Redekar as the new Advocate and thereafter received the entire papers on 8-3-2005. This explanation does not make out a case for condoning the delay.

. We have also noted that Criminal Writ Petition No.1493 of 1999 was admitted by this Court on 28-10-1999 and liberty was granted to apply for a fixed date of hearing in January 2000. The petition came up for hearing on 26-9-2001 and the learned counsel for the petitioner remained absent due to which the petition came to be dismissed for non-prosecution.

. The petition was subsequently restored. The Farad sheet also shows that on number of occasions subsequently none appeared for the petitioner and finally again it came to be dismissed in default on 3-11-2003.

. We have also noted that the substantial relief sought for in the petition is to quash the FIR registered as C.R.No.I-139 of 1999 by the Assistant Controller of Rationing, Flying Squad. With the passage of time and on account of the petition having

been dismissed in default on two earlier occasions, nothing further survives in the petition itself.

. In the premises this application for condonation of delay fails and the same is hereby rejected.

(SMT.R.S.DALVI,J.) (B.H.MARLAPALLE,J.)